

TAX INCENTIVE REVISIONS

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LONG TITLE

General Description:

This bill modifies provisions relating to tax incentives for new development projects.

Highlighted Provisions:

This bill:

- ▶ authorizes a community reinvestment agency to enter into a participation agreement and moves the language relating to a participation agreement from the definition of participation agreement to the provision authorizing the agency to enter into a participation agreement;
- ▶ modifies a provision relating to information that an agency is required to provide to the Governor's Office of Economic Opportunity for inclusion in a database maintained by the Office;
- ▶ requires an agency with no active project area to submit a report to the Office;
- ▶ requires the Office to refer an agency to the state auditor and post a notice on the Office's website or report the agency to the county auditor and treasurer if an agency fails to comply with applicable reporting requirements;
- ▶ requires an agency with unexpended project area funds more than five years after the expiration of the project area funds collection period to use those funds for housing;
- ▶ requires an analysis of whether projected development would be likely to occur without the use of tax incentives; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

List of sections affected:

AMENDS:

17C-1-102

17C-1-202

33 17C-1-603
34 17C-1-702
35 17C-5-105
36 63N-2-104.2

37

38 Statutory text:

39 **17C-1-102. Definitions.**

40 As used in this title:

41 (1) "Active project area" means a project area that has not been dissolved in
42 accordance with Section 17C-1-702.

43 (2) "Adjusted tax increment" means the percentage of tax increment, if less than
44 100%, that an agency is authorized to receive:

45 (a) for a pre-July 1, 1993, project area plan, under Section 17C-1-403, excluding tax
46 increment under Subsection 17C-1-403(3);

47 (b) for a post-June 30, 1993, project area plan, under Section 17C-1-404, excluding
48 tax increment under Section 17C-1-406;

49 (c) under a project area budget approved by a taxing entity committee; or

50 (d) under an interlocal agreement that authorizes the agency to receive a taxing
51 entity's tax increment.

52 (3) "Affordable housing" means housing owned or occupied by a low or moderate
53 income family, as determined by resolution of the agency.

54 (4) "Agency" or "community reinvestment agency" means a separate body corporate
55 and politic, created under Section 17C-1-201.5 or as a redevelopment agency or community
56 development and renewal agency under previous law:

57 (a) that is a political subdivision of the state;

58 (b) that is created to undertake or promote project area development as provided in
59 this title; and

60 (c) whose geographic boundaries are coterminous with:

61 (i) for an agency created by a county, the unincorporated area of the county; and

62 (ii) for an agency created by a municipality, the boundaries of the municipality.

63 (5) "Agency funds" means money that an agency collects or receives for agency
64 operations, implementing a project area plan or an implementation plan as defined in Section
65 17C-1-1001, or other agency purposes, including:

- 66 (a) project area funds;
- 67 (b) income, proceeds, revenue, or property derived from or held in connection with
68 the agency's undertaking and implementation of project area development or agency-wide
69 project development as defined in Section 17C-1-1001;
- 70 (c) a contribution, loan, grant, or other financial assistance from any public or private
71 source;
- 72 (d) project area incremental revenue as defined in Section 17C-1-1001; or
- 73 (e) property tax revenue as defined in Section 17C-1-1001.
- 74 (6) "Annual income" means the same as that term is defined in regulations of the
75 United States Department of Housing and Urban Development, 24 C.F.R. Sec. 5.609, as
76 amended or as superseded by replacement regulations.
- 77 (7) "Assessment roll" means the same as that term is defined in Section 59-2-102.
- 78 (8) "Base taxable value" means, unless otherwise adjusted in accordance with
79 provisions of this title, a property's taxable value as shown upon the assessment roll last
80 equalized during the base year.
- 81 (9) "Base year" means, except as provided in Subsection 17C-1-402(4)(c), the year
82 during which the assessment roll is last equalized:
- 83 (a) for a pre-July 1, 1993, urban renewal or economic development project area plan,
84 before the project area plan's effective date;
- 85 (b) for a post-June 30, 1993, urban renewal or economic development project area
86 plan, or a community reinvestment project area plan that is subject to a taxing entity
87 committee:
- 88 (i) before the date on which the taxing entity committee approves the project area
89 budget; or
- 90 (ii) if taxing entity committee approval is not required for the project area budget,
91 before the date on which the community legislative body adopts the project area plan;
- 92 (c) for a project on an inactive airport site, after the later of:
- 93 (i) the date on which the inactive airport site is sold for remediation and development;
94 or
- 95 (ii) the date on which the airport that operated on the inactive airport site ceased
96 operations; or
- 97 (d) for a community development project area plan or a community reinvestment
98 project area plan that is subject to an interlocal agreement, as described in the interlocal

99 agreement.

100 (10) "Basic levy" means the portion of a school district's tax levy constituting the
101 minimum basic levy under Section 59-2-902.

102 (11) "Board" means the governing body of an agency, as described in Section
103 17C-1-203.

104 (12) "Budget hearing" means the public hearing on a proposed project area budget
105 required under Subsection 17C-2-201(2)(d) for an urban renewal project area budget,
106 Subsection 17C-3-201(2)(d) for an economic development project area budget, or
107 Subsection 17C-5-302(2)(e) for a community reinvestment project area budget.

108 (13) "Closed military base" means land within a former military base that the Defense
109 Base Closure and Realignment Commission has voted to close or realign when that action
110 has been sustained by the president of the United States and Congress.

111 (14) "Combined incremental value" means the combined total of all incremental
112 values from all project areas, except project areas that contain some or all of a military
113 installation or inactive industrial site, within the agency's boundaries under project area plans
114 and project area budgets at the time that a project area budget for a new project area is
115 being considered.

116 (15) "Community" means a county or municipality.

117 (16) "Community development project area plan" means a project area plan adopted
118 under Chapter 4, Part 1, Community Development Project Area Plan.

119 (17) "Community legislative body" means the legislative body of the community that
120 created the agency.

121 (18) "Community reinvestment project area plan" means a project area plan adopted
122 under Chapter 5, Part 1, Community Reinvestment Project Area Plan.

123 (19) "Contest" means to file a written complaint in the district court of the county in
124 which the agency is located.

125 (20) "Development impediment" means a condition of an area that meets the
126 requirements described in Section 17C-2-303 for an urban renewal project area or Section
127 17C-5-405 for a community reinvestment project area.

128 (21) "Development impediment hearing" means a public hearing regarding whether a
129 development impediment exists within a proposed:

130 (a) urban renewal project area under Subsection 17C-2-102(1)(a)(i)(C) and Section
131 17C-2-302; or

132 (b) community reinvestment project area under Section 17C-5-404.

133 (22) "Development impediment study" means a study to determine whether a
134 development impediment exists within a survey area as described in Section 17C-2-301 for
135 an urban renewal project area or Section 17C-5-403 for a community reinvestment project
136 area.

137 (23) "Economic development project area plan" means a project area plan adopted
138 under Chapter 3, Part 1, Economic Development Project Area Plan.

139 (24) "Fair share ratio" means the ratio derived by:

140 (a) for a municipality, comparing the percentage of all housing units within the
141 municipality that are publicly subsidized income targeted housing units to the percentage of
142 all housing units within the county in which the municipality is located that are publicly
143 subsidized income targeted housing units; or

144 (b) for the unincorporated part of a county, comparing the percentage of all housing
145 units within the unincorporated county that are publicly subsidized income targeted housing
146 units to the percentage of all housing units within the whole county that are publicly
147 subsidized income targeted housing units.

148 (25) "Family" means the same as that term is defined in regulations of the United
149 States Department of Housing and Urban Development, 24 C.F.R. Section 5.403, as
150 amended or as superseded by replacement regulations.

151 (26) "Greenfield" means land not developed beyond agricultural, range, or forestry
152 use.

153 (27) "Hazardous waste" means any substance defined, regulated, or listed as a
154 hazardous substance, hazardous material, hazardous waste, toxic waste, pollutant,
155 contaminant, or toxic substance, or identified as hazardous to human health or the
156 environment, under state or federal law or regulation.

157 (28) "Housing allocation" means project area funds allocated for housing under
158 Section 17C-2-203, 17C-3-202, or 17C-5-307 for the purposes described in Section
159 17C-1-412.

160 (29) "Housing fund" means a fund created by an agency for purposes described in
161 Section 17C-1-411 or 17C-1-412 that is comprised of:

162 (a) project area funds, project area incremental revenue as defined in Section
163 17C-1-1001, or property tax revenue as defined in Section 17C-1-1001 allocated for the
164 purposes described in Section 17C-1-411; or

165 (b) an agency's housing allocation.

166 (30) (a) "Inactive airport site" means land that:

167 (i) consists of at least 100 acres;

168 (ii) is occupied by an airport:

169 (A) (I) that is no longer in operation as an airport; or

170 (II) (Aa) that is scheduled to be decommissioned; and

171 (Bb) for which a replacement commercial service airport is under construction; and

172 (B) that is owned or was formerly owned and operated by a public entity; and

173 (iii) requires remediation because:

174 (A) of the presence of hazardous waste or solid waste; or

175 (B) the site lacks sufficient public infrastructure and facilities, including public roads,

176 electric service, water system, and sewer system, needed to support development of the site.

177 (b) "Inactive airport site" includes a perimeter of up to 2,500 feet around the land

178 described in Subsection (30)(a).

179 (31) (a) "Inactive industrial site" means land that:

180 (i) consists of at least 1,000 acres;

181 (ii) is occupied by an inactive or abandoned factory, smelter, or other heavy industrial

182 facility; and

183 (iii) requires remediation because of the presence of hazardous waste or solid waste.

184 (b) "Inactive industrial site" includes a perimeter of up to 1,500 feet around the land

185 described in Subsection (31)(a).

186 (32) "Income targeted housing" means housing that is owned or occupied by a family

187 whose annual income is at or below 80% of the median annual income for a family within the

188 county in which the housing is located.

189 (33) "Incremental value" means a figure derived by multiplying the marginal value of

190 the property located within a project area on which tax increment is collected by a number

191 that represents the adjusted tax increment from that project area that is paid to the agency.

192 (34) "Loan fund board" means the Olene Walker Housing Loan Fund Board,

193 established under Title 35A, Chapter 8, Part 5, Olene Walker Housing Loan Fund.

194 (35) (a) " Local government building" means a building owned and operated by a

195 community for the primary purpose of providing one or more primary community functions,

196 including:

197 (i) a fire station;

- 198 (ii) a police station;
199 (iii) a city hall; or
200 (iv) a court or other judicial building.

201 (b) "Local government building" does not include a building the primary purpose of
202 which is cultural or recreational in nature.

203 (36) "Major transit investment corridor" means the same as that term is defined in
204 Section 10-9a-103.

205 (37) "Marginal value" means the difference between actual taxable value and base
206 taxable value.

207 (38) "Military installation project area" means a project area or a portion of a project
208 area located within a federal military installation ordered closed by the federal Defense Base
209 Realignment and Closure Commission.

210 (39) "Municipality" means a city, town, or metro township as defined in Section
211 10-2a-403.

212 (40) "Participant" means one or more persons that enter into a participation
213 agreement with an agency.

214 (41) "Participation agreement" means a written agreement between a person and an
215 agency ~~[that:~~

216 ~~—— (a) includes a description of:~~

217 ~~—— (i) the project area development that the person will undertake;~~

218 ~~—— (ii) the amount of project area funds the person may receive; and~~

219 ~~—— (iii) the terms and conditions under which the person may receive project area funds;~~

220 ~~and~~

221 ~~—— (b) is approved by resolution of the board.] under Subsection 17C-1-202(5).~~

222 (42) "Plan hearing" means the public hearing on a proposed project area plan
223 required under Subsection 17C-2-102(1)(a)(vi) for an urban renewal project area plan,
224 Subsection 17C-3-102(1)(d) for an economic development project area plan, Subsection
225 17C-4-102(1)(d) for a community development project area plan, or Subsection
226 17C-5-104(3)(e) for a community reinvestment project area plan.

227 (43) "Post-June 30, 1993, project area plan" means a project area plan adopted on or
228 after July 1, 1993, and before May 10, 2016, whether or not amended subsequent to the
229 project area plan's adoption.

230 (44) "Pre-July 1, 1993, project area plan" means a project area plan adopted before

231 July 1, 1993, whether or not amended subsequent to the project area plan's adoption.

232 (45) "Private," with respect to real property, means property not owned by a public
233 entity or any other governmental entity.

234 (46) "Project area" means the geographic area described in a project area plan within
235 which the project area development described in the project area plan takes place or is
236 proposed to take place.

237 (47) "Project area budget" means a multiyear projection of annual or cumulative
238 revenues and expenses and other fiscal matters pertaining to a project area prepared in
239 accordance with:

240 (a) for an urban renewal project area, Section 17C-2-201;

241 (b) for an economic development project area, Section 17C-3-201;

242 (c) for a community development project area, Section 17C-4-204; or

243 (d) for a community reinvestment project area, Section 17C-5-302.

244 (48) "Project area development" means activity within a project area that, as
245 determined by the board, encourages, promotes, or provides development or redevelopment
246 for the purpose of implementing a project area plan, including:

247 (a) promoting, creating, or retaining public or private jobs within the state or a
248 community;

249 (b) providing office, manufacturing, warehousing, distribution, parking, or other
250 facilities or improvements;

251 (c) planning, designing, demolishing, clearing, constructing, rehabilitating, or
252 remediating environmental issues;

253 (d) providing residential, commercial, industrial, public, or other structures or spaces,
254 including recreational and other facilities incidental or appurtenant to the structures or
255 spaces;

256 (e) altering, improving, modernizing, demolishing, reconstructing, or rehabilitating
257 existing structures;

258 (f) providing open space, including streets or other public grounds or space around
259 buildings;

260 (g) providing public or private buildings, infrastructure, structures, or improvements;

261 (h) relocating a business;

262 (i) improving public or private recreation areas or other public grounds;

263 (j) eliminating a development impediment or the causes of a development

264 impediment;

265 (k) redevelopment as defined under the law in effect before May 1, 2006; or

266 (l) any activity described in this Subsection (48) outside of a project area that the
267 board determines to be a benefit to the project area.

268 (49) "Project area funds" means tax increment or sales and use tax revenue that an
269 agency receives under a project area budget adopted by a taxing entity committee or an
270 interlocal agreement.

271 (50) "Project area funds collection period" means the period of time that:

272 (a) begins the day on which the first payment of project area funds is distributed to an
273 agency under a project area budget approved by a taxing entity committee or an interlocal
274 agreement; and

275 (b) ends the day on which the last payment of project area funds is distributed to an
276 agency under a project area budget approved by a taxing entity committee or an interlocal
277 agreement.

278 (51) "Project area plan" means an urban renewal project area plan, an economic
279 development project area plan, a community development project area plan, or a community
280 reinvestment project area plan that, after the project area plan's effective date, guides and
281 controls the project area development.

282 (52) (a) "Property tax" means each levy on an ad valorem basis on tangible or
283 intangible personal or real property.

284 (b) "Property tax" includes a privilege tax imposed under Title 59, Chapter 4, Privilege
285 Tax.

286 (53) "Public entity" means:

287 (a) the United States, including an agency of the United States;

288 (b) the state, including any of the state's departments or agencies; or

289 (c) a political subdivision of the state, including a county, municipality, school district,
290 special district, special service district, community reinvestment agency, or interlocal
291 cooperation entity.

292 (54) "Publicly owned infrastructure and improvements" means water, sewer, storm
293 drainage, electrical, natural gas, telecommunication, or other similar systems and lines,
294 streets, roads, curb, gutter, sidewalk, walkways, parking facilities, public transportation
295 facilities, or other facilities, infrastructure, and improvements benefitting the public and to be
296 publicly owned or publicly maintained or operated.

297 (55) "Record property owner" or "record owner of property" means the owner of real
298 property, as shown on the records of the county in which the property is located, to whom the
299 property's tax notice is sent.

300 (56) "Sales and use tax revenue" means revenue that is:

301 (a) generated from a tax imposed under Title 59, Chapter 12, Sales and Use Tax Act;
302 and

303 (b) distributed to a taxing entity in accordance with Sections 59-12-204 and
304 59-12-205.

305 (57) "Superfund site":

306 (a) means an area included in the National Priorities List under the Comprehensive
307 Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Sec. 9605;
308 and

309 (b) includes an area formerly included in the National Priorities List, as described in
310 Subsection (57)(a), but removed from the list following remediation that leaves on site the
311 waste that caused the area to be included in the National Priorities List.

312 (58) "Survey area" means a geographic area designated for study by a survey area
313 resolution to determine whether:

314 (a) one or more project areas within the survey area are feasible; or

315 (b) a development impediment exists within the survey area.

316 (59) "Survey area resolution" means a resolution adopted by a board that designates
317 a survey area.

318 (60) "Taxable value" means:

319 (a) the taxable value of all real property a county assessor assesses in accordance
320 with Title 59, Chapter 2, Part 3, County Assessment, for the current year;

321 (b) the taxable value of all real and personal property the commission assesses in
322 accordance with Title 59, Chapter 2, Part 2, Assessment of Property, for the current year;
323 and

324 (c) the year end taxable value of all personal property a county assessor assesses in
325 accordance with Title 59, Chapter 2, Part 3, County Assessment, contained on the prior
326 year's tax rolls of the taxing entity.

327 (61) (a) "Tax increment" means the difference between:

328 (i) the amount of property tax revenue generated each tax year by a taxing entity from
329 the area within a project area designated in the project area plan as the area from which tax

330 increment is to be collected, using the current assessed value of the property and each
331 taxing entity's current certified tax rate as defined in Section 59-2-924; and

332 (ii) the amount of property tax revenue that would be generated from that same area
333 using the base taxable value of the property and each taxing entity's current certified tax rate
334 as defined in Section 59-2-924.

335 (b) "Tax increment" does not include taxes levied and collected under Section
336 59-2-1602 on or after January 1, 1994, upon the taxable property in the project area unless:

337 (i) the project area plan was adopted before May 4, 1993, whether or not the project
338 area plan was subsequently amended; and

339 (ii) the taxes were pledged to support bond indebtedness or other contractual
340 obligations of the agency.

341 (62) "Taxing entity" means a public entity that:

342 (a) levies a tax on property located within a project area; or

343 (b) imposes a sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act.

344 (63) "Taxing entity committee" means a committee representing the interests of taxing
345 entities, created in accordance with Section 17C-1-402.

346 (64) "Unincorporated" means not within a municipality.

347 (65) "Urban renewal project area plan" means a project area plan adopted under
348 Chapter 2, Part 1, Urban Renewal Project Area Plan.

349

350 **17C-1-202. Agency powers.**

351 (1) An agency may:

352 (a) sue and be sued;

353 (b) enter into contracts generally;

354 (c) buy, obtain an option upon, acquire by gift, or otherwise acquire any interest in real
355 or personal property;

356 (d) hold, sell, convey, grant, gift, or otherwise dispose of any interest in real or
357 personal property;

358 (e) own, hold, maintain, utilize, manage, or operate real or personal property, which
359 may include the use of agency funds or the collection of revenue;

360 (f) enter into a lease agreement on real or personal property, either as lessee or
361 lessor;

362 (g) provide for project area development as provided in this title;

363 (h) receive and use agency funds as provided in this title;

364 (i) if disposing of or leasing land, retain controls or establish restrictions and

365 covenants running with the land consistent with the project area plan;

366 (j) accept financial or other assistance from any public or private source for the

367 agency's activities, powers, and duties, and expend any funds the agency receives for any

368 purpose described in this title;

369 (k) borrow money or accept financial or other assistance from a public entity or any

370 other source for any of the purposes of this title and comply with any conditions of any loan

371 or assistance;

372 (l) issue bonds to finance the undertaking of any project area development or for any

373 of the agency's other purposes, including:

374 (i) reimbursing an advance made by the agency or by a public entity to the agency;

375 (ii) refunding bonds to pay or retire bonds previously issued by the agency; and

376 (iii) refunding bonds to pay or retire bonds previously issued by the community that

377 created the agency for expenses associated with project area development;

378 (m) pay an impact fee, exaction, or other fee imposed by a community in connection

379 with land development;

380 (n) subject to Part 10, Agency Taxing Authority, levy a property tax; or

381 (o) transact other business and exercise all other powers described in this title.

382 (2) The establishment of controls or restrictions and covenants under Subsection

383 (1)(i) is a public purpose.

384 (3) An agency may acquire real property under Subsection (1)(c) that is outside a

385 project area only if the board determines that the property will benefit a project area.

386 (4) An agency is not subject to Section 10-8-2 or 17-50-312.

387 (5)(a) An agency may, subject to Subsection (5)(c), enter into an agreement with a

388 person to govern the development the person will undertaken within a project area.

389 (b) An agreement under Subsection (5)(a) shall include a description of:

390 (i) the project area development that the person will undertake;

391 (ii) the amount of project area funds the agency agrees to pay to the person to

392 facilitate the development; and

393 (iii) the terms and conditions under which the agency agrees to pay project area funds

394 to the person.

395 (c)(i) An agreement under Subsection (5)(a) is subject to board approval by resolution

396 of the board.

397 (ii) A resolution under Subsection (5)(c)(i) shall include a finding by the board
398 describing how the project area development described in the agreement will contribute to
399 achieving the goals, policies, and purposes of the project area plan.

400

401 **17C-1-603. Reporting requirements -- Governor's Office of Economic**
402 **Opportunity to maintain a database.**

403 (1) As used in this section:

404 (a) "Database" means the database described in Subsection (2)(a).

405 (b) "Office" means the Governor's Office of Economic Opportunity.

406 (c) "Office website" means a public website maintained by the office.

407 (1) ~~[On or before June 1, 2022, the Governor's Office of Economic Opportunity]~~ The
408 office shall:

409 (a) create and maintain a database to track information for each agency located
410 within the state; and

411 (b) make the database publicly accessible from the ~~[office's]~~ office website.

412 (2) (a) The ~~[Governor's Office of Economic Opportunity]~~ office may:

413 (i) contract with a third party to create and maintain the database ~~[described in~~
414 ~~Subsection (1)]~~; and

415 (ii) charge a fee for a county, city, or agency to provide information to the database
416 ~~[described in Subsection (1)]~~.

417 (b) The ~~[Governor's Office of Economic Opportunity]~~ office shall make rules, in
418 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a fee
419 schedule for the fee described in Subsection (2)(a)(ii).

420 (3) ~~[Beginning in 2022, on]~~ On or before June 30 of each calendar year, an agency
421 shall, for each active project area for which the project area funds collection period has not
422 expired, ~~[provide]~~ submit to the office for inclusion in the database ~~[described in~~
423 ~~Subsection (1)]~~ the following information:

424 (a) an assessment of the change in marginal value, including:

425 (i) the base year;

426 (ii) the base taxable value;

427 (iii) the prior year's assessed value;

428 (iv) the estimated current assessed value;

429 (v) the percentage change in marginal value; and
430 (vi) a narrative description of the relative growth in assessed value;

431 (b) the amount of project area funds the agency received and spent for each year of
432 the project area funds collection period, broken down by the applicable budget or funds
433 analysis category described in Subsection (3)(d), including:

434 (i) a comparison of the actual project area funds received and spent for each year to
435 the amount of project area funds forecasted for each year when the project area was
436 created, if available;

437 (ii) (A) the agency's historical receipts and expenditures of project area funds,
438 including the tax year for which the agency first received project area funds from the project
439 area; or

440 (B) if the agency has not yet received project area funds from the project area, the
441 year in which the agency expects each project area funds collection period to begin;

442 (iii) a list of each taxing entity that levies or imposes a tax within the project area and
443 a description of the benefits that each taxing entity receives from the project area; and

444 (iv) the amount paid to other taxing entities under Section 17C-1-410, if applicable;

445 (c) a description of current and anticipated project area development, including:

446 (i) a narrative of any significant project area development, including infrastructure
447 development, site development, participation agreements, or vertical construction; and

448 (ii) other details of development within the project area, including:

449 (A) the total developed acreage;

450 (B) the total undeveloped acreage;

451 (C) the percentage of residential development; and

452 (D) the total number of housing units authorized, if applicable;

453 (d) the project area budget, if applicable, or other project area funds analyses, with
454 receipts and expenditures categorized by the type of receipt and expenditure related to the
455 development performed or to be performed under the project area plan, including:

456 (i) each project area funds collection period, including:

457 (A) the start and end date of the project area funds collection period; and

458 (B) the number of years remaining in each project area funds collection period;

459 (ii) the amount of project area funds the agency is authorized to receive from the
460 project area cumulatively and from each taxing entity, including:

461 (A) the total dollar amount; and

462 (B) the percentage of the total amount of project area funds generated within the
463 project area;

464 (iii) the remaining amount of project area funds the agency is authorized to receive
465 from the project area cumulatively and from each taxing entity; and

466 (iv) the amount of project area funds the agency is authorized to use to pay for the
467 agency's administrative costs, as described in Subsection 17C-1-409(1), including:

468 (A) the total dollar amount; and

469 (B) the percentage of the total amount of all project area funds;

470 (e) the estimated amount of project area funds that the agency is authorized to
471 receive from the project area for the current calendar year;

472 (f) the estimated amount of project area funds to be paid to the agency for the next
473 calendar year;

474 (g) a map of the project area; ~~and~~

475 (h) a description of how the goals, policies, and purposes of the project area plan
476 have been furthered during the preceding year; and

477 ~~(h)~~ (i) any other relevant information the agency elects to provide.

478 (4) An agency with no active project area shall, no later than June 30 of each year
479 until the agency is dissolved under Section 17C-1-701.5, submit a report to the office stating
480 that the agency has no active project area.

481 ~~(4)~~ (5) Any information an agency submits in accordance with this section:

482 (a) is for informational purposes only; and

483 (b) does not alter the amount of project area funds that an agency is authorized to
484 receive from a project area.

485 ~~(5)~~ (6) The provisions of this section apply regardless of when the agency or
486 project area is created.

487 ~~(6)~~ (7) On or before September 1 of each year, the ~~Governor's Office of Economic~~
488 ~~Opportunity~~ office shall prepare and submit an annual written report to the Political
489 Subdivisions Interim Committee that identifies:

490 ~~(a)~~ the agencies that complied and the agencies that failed to comply with the
491 reporting requirements of this section during the preceding reporting period; ~~and~~

492 ~~(b) any agencies that failed to comply with the reporting requirements of this section~~
493 ~~during the preceding reporting period].~~

494 (8)(a) If the office does not receive the information that an agency is required to

495 submit under Subsection (3) by September 30 of the year the information is due, the office

496 shall:

497 (i) refer the noncompliant agency to the state auditor for review; and

498 (ii) post a notice on the office website identifying the noncompliant agency and

499 describing the agency's noncompliance.

500 (b) If the office does not receive a report an agency is required to submit under

501 Subsection (4), the office shall refer the noncompliant agency to the state auditor for review.

502 (c) If, for two consecutive years, the office does not receive information an agency is

503 required to submit under Subsection (3):

504 (i) the office shall notify the auditor and treasurer of the county in which the

505 noncompliant agency is located of the agency's noncompliance; and

506 (ii) upon receiving the notice described in Subsection (8)(c)(i), the county treasurer

507 shall withhold from the agency 20 percent of the amount the agency is otherwise entitled to

508 receive under an interlocal agreement with a taxing entity for the sharing of tax increment,

509 until the office notifies the county auditor and treasurer that the agency has complied with the

510 requirement of Subsection (3).

511

512 **17C-1-702. Project area dissolution.**

513 (1) Regardless of when a project area funds collection period ends, the project area

514 remains in existence until:

515 (a) the agency adopts a resolution dissolving the project area; and

516 (b) the community legislative body adopts an ordinance dissolving the project area.

517 (2) The ordinance described in Subsection (1)(b) shall include:

518 (a) the name of the project area; and

519 (b) a project area map or boundary description.

520 (3) Within 30 days after the day on which the community legislative body adopts an

521 ordinance described in Subsection (1)(b), the community legislative body shall:

522 (a) submit a copy of the ordinance to the county recorder of the county in which the

523 dissolved project area is located; and

524 (b) mail or electronically submit a copy of the ordinance to the county auditor, the

525 State Tax Commission, the State Board of Education, and each taxing entity that levies or

526 imposes a tax on property within the dissolved project area.

527 (4) An agency with project area funds remaining unexpended five years after the

528 project area funds collection period ends shall use the unexpended funds as provided in
529 Subsection 17C-1-412(1)(b).

530

531 **17C-5-105 (Effective 07/01/23). Community reinvestment project area plan**
532 **requirements.**

533 An agency shall ensure that each community reinvestment project area plan and
534 proposed community reinvestment project area plan:

535 (1) subject to Section 17C-1-414, if applicable, includes a boundary description and a
536 map of the community reinvestment project area;

537 (2) contains a general statement of the existing land uses, layout of principal streets,
538 population densities, and building intensities of the community reinvestment project area and
539 how each will be affected by project area development;

540 (3) states the standards that will guide project area development;

541 (4) shows how project area development will further purposes of this title;

542 (5) is consistent with the general plan of the community in which the community
543 reinvestment project area is located and shows that project area development will conform to
544 the community's general plan;

545 (6) if applicable, describes how project area development will eliminate or reduce a
546 development impediment in the community reinvestment project area;

547 (7) describes any specific project area development that is the object of the
548 community reinvestment project area plan;

549 (8) if applicable, explains how the agency plans to select a participant;

550 (9) states each reason the agency selected the community reinvestment project area;

551 (10) describes the physical, social, and economic conditions that exist in the
552 community reinvestment project area;

553 (11) describes each type of financial assistance that the agency anticipates offering a
554 participant;

555 (12) includes an analysis or description of the anticipated public benefit resulting from
556 project area development, including benefits to the community's economic activity and tax
557 base;

558 (13) includes the rationale for the use of tax increment, including an analysis of
559 whether the proposed project area development might reasonably be expected to occur in
560 the foreseeable future without the use of tax increment;

561 ~~[(13)]~~ (14) if applicable, states that the agency shall comply with Section 9-8a-404 as
562 required under Section 17C-5-106;
563 ~~[(14)]~~ (15) for a community reinvestment project area plan that an agency adopted
564 before May 14, 2019, states whether the community reinvestment project area plan or
565 proposed community reinvestment project area plan is subject to a taxing entity committee or
566 an interlocal agreement; and
567 ~~[(15)]~~ (16) includes other information that the agency determines to be necessary or
568 advisable.

569

570 **63N-2-104.2. Written agreement -- Contents -- Grounds for amendment or**
571 **termination.**

572 (1) If the office determines that a business entity is eligible for a tax credit under
573 Section 63N-2-104.1, the office may enter into a written agreement with the business entity
574 that:

- 575 (a) establishes performance benchmarks for the business entity to claim a tax credit,
576 including any minimum wage requirements;
- 577 (b) specifies the maximum amount of tax credit that the business entity may be
578 authorized for a taxable year and over the life of the new commercial project, subject to the
579 limitations in Section 63N-2-104.3;
- 580 (c) establishes the length of time the business entity may claim a tax credit;
- 581 (d) requires the business entity to retain records supporting a claim for a tax credit for
582 at least four years after the business entity claims the tax credit;
- 583 (e) requires the business entity to submit to audits for verification of any tax credit
584 claimed; and
- 585 (f) requires the business entity, in order to claim a tax credit, to meet the requirements
586 of Section 63N-2-105.

587 (2) In establishing the terms of a written agreement, including the duration and
588 amount of tax credit that the business entity may be authorized to receive, the office shall:

- 589 (a) authorize the tax credit in a manner that provides the most effective incentive for
590 the new commercial project;
- 591 (b) consider the following factors:
 - 592 (i) whether the new commercial project provides vital or specialized support to supply
593 chains;

594 (ii) whether the new commercial project provides an innovative product, technology,
595 or service;

596 (iii) the number and wages of new incremental jobs associated with the new
597 commercial project;

598 (iv) the amount of financial support provided by local government entities for the new
599 commercial project;

600 (v) the amount of capital expenditures associated with the new commercial project;

601 (vi) whether the new commercial project returns jobs transferred overseas;

602 (vii) the rate of unemployment in the county in which the new commercial project is
603 located;

604 (viii) whether the new commercial project creates a remote work opportunity;

605 (ix) whether the new commercial project is located in a development zone created by
606 a local government entity as described in Subsection 63N-2-104(2);

607 (x) whether the business entity commits to hiring Utah workers for the new
608 commercial project;

609 (xi) whether the business entity adopts a corporate citizenry plan or supports
610 initiatives in the state that advance education, gender equality, diversity and inclusion,
611 work-life balance, environmental or social good, or other similar causes;

612 (xii) whether the business entity's headquarters are located within the state;

613 (xiii) the likelihood of other business entities relocating to another state as a result of
614 the new commercial project;

615 (xiv) the necessity of the tax credit for the business entity's expansion in the state or
616 relocation from another state; [\[and\]](#)

617 [\(xv\) whether the proposed new commercial project might reasonably be expected to](#)
618 [occur in the foreseeable future without the tax credit; and](#)

619 [\[\(xv\)\] \(xvi\)](#) the location and impact of the new commercial project on existing and
620 planned transportation facilities, existing and planned housing, including affordable housing,
621 and public infrastructure; and

622 (c) consult with the GO Utah board.

623 (3) (a) In determining the amount of tax credit that a business entity may be
624 authorized to receive under a written agreement, the office may:

625 (i) authorize a higher or optimized amount of tax credit for a new commercial project
626 located within a development zone created by a local government entity as described in

627 Subsection 63N-2-104(2); and

628 (ii) establish by rule made in accordance with Title 63G, Chapter 3, Utah
629 Administrative Rulemaking Act, a process by which the office closely approximates the
630 amount of taxes the business entity paid under Title 59, Chapter 12, Sales and Use Tax Act,
631 for a capital project.

632 (b) The office may apply a process described in Subsection (3)(a)(ii) to a business
633 entity only with respect to a new or amended written agreement that takes effect on or after
634 January 1, 2022.

635 (4) If the office identifies any of the following events after entering into a written
636 agreement with a business entity, the office and the business entity shall amend, or the office
637 may terminate, the written agreement:

638 (a) a change in the business entity's organization resulting from a merger with or
639 acquisition of another entity located in the state;

640 (b) a material increase in the business entity's retail operations that results in new
641 state revenue not subject to the incentive; or

642 (c) an increase in the business entity's operations that:

643 (i) is outside the scope of the written agreement or outside the boundaries of a
644 development zone; and

645 (ii) results in new state revenue not subject to the incentive.